IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

Crl.MC.No. 249 of 2007()

AGAINST THE JUDGEMENT/ORDER IN CRRP.311/2001
ST.149/1994 of JUDL.MAGISTRATE OF FIRST CLASS, PALA

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PETITIONER: ACCUSED:

K.P. HASSANKUTTY, S/O.PAREED KANNU,
KARIPPAYIL HOUSE, KANJIRAPPALLY P.O.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS: COMPLAINANT & STATE:

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1. JACOB GEORGE, S/O.VARKEY,
KUTHIVALACHAL HOUSE, KUZHATHADIYOOR KARA,
LALAM VILLAGE.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 249 OF 2007

Dated this the 1st day of February, 2007

ORDER

The petitioner has been found, guilty, convicted and sentenced in a prosecution under Sec.138 of the N.I. Act. He was sentenced to undergo imprisonment till rising of court. There is a further direction to pay an amount of Rs.35,000/- as compensation and in default, to undergo simple imprisonment for a period of three months. According to the petitioner, he has already paid the amount to the complainant and the complainant accepts and acknowledges such payment. But the petitioner apprehends that the learned Magistrate may proceed to enforce the default sentence also when he appears before the learned Magistrate on the ground that the compensation amount has not been deposited before court.

2. Obviously, no Magistrate can insist on the same. There is a specific direction only to pay compensation and not to deposit compensation. If the petitioner and the complainant appear before the learned Magistrate and satisfy the learned Magistrate that the payment has been effected as

directed by the court of revision, there can be no question of default sentence being enforced against the petitioner. No further, special or specific directions appear to be necessary.

3. This Crl.M.C. is, in these circumstances, dismissed; but with the specific observation that if the petitioner satisfies the learned Magistrate that the payment of compensation has been effected as directed by the court of revision, there can be no question of the default sentence being enforced against the petitioner.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge